IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

WP(C).No. 28667 of 2007(K)

PETITIONER:

K.A.KARAPPAN, S/O.ANJAKALAVAN,
AGED 85 YEARS, KAVUMKAL HOUSE,
PAZHANGAD, EDAVANAKAD P.O.

BY ADV. SRI.PHILIP T.VARGHESE,
ADV. SRI.THOMAS T.VARGHESE.

RESPONDENTS:

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1. **THE CIRCLE INSPECTOR OF POLICE,**
   NJARAKKAL.

2. **THE SUB INSPECTOR OF POLICE,**
   NJARAKKAL.

3. **K.K.UNNIKRISHNAN, S/O.K.A.KARAPPAN,**
   KAVUMKAL HOUSE, PAZHANGAD, EDAVANAKAD P.O.

4. **OMANA SADANANDAN, W/O SADANANDAN,**
   KAITHAVALAPPIL HOUSE, BAKERY STOP, CHERAI P.O.

5. **RAMANI SUBRAMANIAN, W/O SUBRAMANIAN,**
   PANACKAL HOUSE, EDMUTTAM P.O.,
   THRISSUR DISTRICT.

BY ADV. SRI.A.K.ALEX,
ADV. SRI.M.T.BALAN,
GOVT. PLEADER SRI. SALIM.P.A.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE PARTITION DEED NO. 252/1975 OF S.R.O, KUZHIPALLY DTD. 07/04/1995.

EXT.P.2: COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE R.2. DTD. 20/09/2007.

RESPONDENT'S EXHIBITS:

EXT. R3.A: COPY OF THE AUTHORIZATION LETTER DTD. 29/07/07 GIVEN BY PETITIONER TO R.3.

EXT.R3.B: COPY OF THE MEDICAL CERTIFICATE ISSUED ON 01/10/07 FROM KOMARANCHATH HOSPITAL AND UROLOGY CENTRE.

EXT.R3.C: COPY OF THE PLAINT IN O.S. NO. 412/07 FILED BY R.3. BEFORE THE MUNSIFF'S COURT, KOCHI.

EXT.R3.D: COPY OF THE PLAINT IN O.S. 255/07 OF THE MUNSIFF'S COURT, KOCHI FILED BY R.3. AND OTHERS.

EXT.R3.E: COPY OF THE PLAINT IN O.S. 343/07 OF THE MUNSIFF'S COURT, KOCHI FILED SRI. BALAN AGAINST R.3. AND OTHERS.

EXT.R3.F: COPY OF THE COMPLAINT DTD. 13/09/07 SUBMITTED BY R.3. TO THE R.2.

EXT.R3.G: COPY OF THE SETTLMENT DEED NO. 1322/85 DTD. 05/03/85 EXECUTED BY PETITIONER IN FAVOUR OF SRI. BALAN.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.28667 of 2007-K

Judgment

Balakrishnan Nair, J.

The petitioner is the father of respondents 3 to 5. He owns 31.3 cents of property. According to him, the above respondents are not permitting him to take the usufructs from the said property. So, he proposes to sell the property. But the aforementioned respondents are preventing him from measuring the property, so that he may not sell it. The petitioner and his workers are prevented from entering the property also. Therefore, the petitioner has moved for protection against his son, the 3rd respondent herein by filing Ext.P2 representation before the Police. Thereafter, this Writ Petition is filed, seeking the following relief :

> *"issue a writ of mandamus or any other appropriate writ or direction to respondents 1 and 2 to provide adequate and effective protection to the life of the petitioner and his wife for enjoyment of his property having an extent of 31.300 cents in Re-survey No.183 in Block No.5 of Edavanakkad village without any*

obstruction or hindrance from respondents 3 to 5."

2. The 3rd respondent has filed a counter affidavit, denying the allegations. According to him, the petitioner, who is his father, has assigned to him, the right to take usufructs from the property concerned as per Ext.R3(a) dated 29.07.2007. His elder brother wants to get the entire property and so, at his instance, his father has filed the present writ petition. As on today, his father is residing with the third respondent peacefully and comfortably, submits the learned counsel for the third respondent. He also submits that Ext.R3(c) suit is pending concerning the very same property. The petitioner has filed a reply affidavit, denying all the allegations of the third respondent. The learned Government Pleader upon instruction submitted that this being a family dispute, the Police did not interfere with it. But, the parties were summoned and strictly warned not to commit any cognizable offence.

3. Having regard to the facts of the case, we feel that the Police have no role to play in the family dispute between the petitioner and his sons. They have to resolve it by taking recourse to appropriate proceedings before the civil court. If the petitioner is obstructed by any body from enjoying his property, his remedy is to move the appropriate civil court and not the police. But, if there is

any threat or physical harm to the petitioner from the side of any one, he may inform the police and in that event, the police will look into the matter and take appropriate action in accordance with law.

The Writ Petition is dismissed with the above direction.

K.BALAKRISHNAN NAIR,JUDGE

22.10.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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